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Attorneys for Armando G. Aviles

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

In Re: AMIDEE CAPITAL GROUP. INC., et al.,	§	CASE NO. 10-20041-c-11
	§	
Debtors.	§	CHAPTER 11
	§	[Jointly Administered]

**ARMANDO G. AVILES' MOTION FOR RELIEF FROM THE AUTOMATIC STAY
AGAINST REAL PROPERTY LOCATED AT 1111 BURKE ROAD,
PASADENA, TEXAS [OAK POINT APARTMENT COMPLEX]**

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF IT IS GRANTED, THE MOVANT MAY ACT OUTSIDE OF THE BANKRUPTCY PROCESS. IF YOU DO NOT WANT THE STAY LIFTED, IMMEDIATELY CONTACT THE MOVING PARTY TO SETTLE. IF YOU CANNOT SETTLE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY AT LEAST SEVEN (7) DAYS BEFORE THE HEARING. IF YOU CANNOT SETTLE, YOU MUST ATTEND THE HEARING. EVIDENCE MAY BE OFFERED AT THE HEARING AND THE COURT MAY RULE.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

THERE WILL BE A HEARING ON THIS MATTER ON APRIL 29, 2010 AT 2:00 P.M. IN THE UNITED STATES BANKRUPTCY COURT, 1133 N. SHORELINE BOULEVARD, 2ND FLOOR, CORPUS CHRISTI, TEXAS 78401.

Armanda G. Aviles (the "Movant"), a secured creditor and party in interest in the above captioned bankruptcy case hereby files his Motion for Relief from the Automatic Stay Against Real Property Located at 1111 Burke Road, Pasadena, Texas [Oak Point Apartment Complex] (the "Motion") and in support thereof, respectfully represents as follows:

1. This motion requests an order from the Bankruptcy Court authorizing the person filing this motion to foreclose on or to repossess the property that is identified in paragraph 3 herein.

2. Movant is Armanda G. Aviles.

3. Movant holds a security interest in real property located at 1111 Burke Road, Pasadena, Texas [Oak Point Apartment Complex] (the "Property"). The legal description of the Property is attached hereto as Exhibit "A". Movant provided labor and materials to improve the Property. Debtor, **Amidee Oak Point Apartments, LLC** (the "Debtor") failed to pay Movant for his labor and materials. Consequently, Movant timely failed all notices required by law and timely filed an Affidavit Claiming Mechanic's and Materialman's Lien on August 13, 2009 under Clerk's File Number 20090366424, securing said lien in the original principal sum of \$90,450.00. Attorney fees and interest have continued to accrue on the unpaid principal amount.

On January 7, 2010, Movant filed an Original Petition, Application for Receiver and Request for Disclosure with the Harris County District Court, 151st Judicial District, under Case No. 2010-01192. The Debtor filed its petition for bankruptcy protection on January 17, 2010.

4. Type of collateral: Mechanic's & Materialman's Lien on real property.
5. Debtor's scheduled value of the real property: \$3,950,000.00
6. Movant's estimated value of real property: \$3,950,000.00
7. First lien of Sterling Bank: \$2,700,000.00
8. Total amount owed to Movant: \$102,596.55
9. Estimated equity: \$1,147,403.50
10. Total pre and post-petition arrearages: \$102,596.55

RELIEF REQUESTED

10. Movant respectfully requests this Court enter an Order granting Movant relief from the automatic stay to pursue its state law rights against the Property. Movant's interest in the Property is not adequately protected because the Property is losing tenants and the estate does not have sufficient funds to maintain the Property. Movant would show the Court that there is the possibility that the rents, profits and proceeds collected by Debtor will be lost, removed, spent or hidden by the Debtor. No adequate protection has been offered.

WHEREFORE, PREMISES CONSIDERED, Movant respectfully requests this Court to enter an Order granting it relief from the automatic stay in order to pursue its state law remedies against the Property, and granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

BEARD, KULTGEN, BROPHY, BOSTWICK,
DICKSON & SQUIRES, LLP

/s/ J. David Dickson

By: _____

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ATTORNEY FOR MOVANT, Armanda G. Aviles

CERTIFICATE OF CONFERENCE

I hereby certify that prior to filing the foregoing Motion for Relief from the Automatic Stay, I conferred with Sara Patterson on March 29, 2010, counsel for the Debtor, regarding the relief requested herein. The counsel for Debtor is opposed to the relief requested herein.

/s/ J. David Dickson

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay was served via electronic mail to the parties requesting same, and upon all persons listed below by United States Mail, postage prepaid, on this 31st day of March, 2010:

Amidee Oak Pointe Apartments, LLC
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Bank of America
P O Box 15710
Wilmington, DE 19886-5710

Okin Adams & Kilmer LLP
1113 Vine Street, Suite 201
Houston, TX 77002

First Access Capital Corp.
34601 E. Shores Rd.
Lone Jack, MO 64070

Charles Robert Sterbach
US Department of Justice
Office of the U.S. Trustee
606 N. Carancahua Street
Suite 1107
Corpus Christi, TX 78476

Sherrie Malone
3103 Lakes of Katy Lane
Katy, TX 77493

Danny Thompson
813 Avenue C
Katy, TX 77493

Amidee 2006 Preferred-Corpus, Ltd.
d/b/a The Atrium
14420 W. Sylvanfield Drive
Suite 100
Houston, Texas 77014

The Hartford
P O Box 2907
Hartford, CT 06104-2907

Matthew Scott Okin
Okin Adams & Kilmer LLP
1113 Vine Street, Suite 201
Houston, Texas 77002

Dell Computer Credit
P O Box 689020
Des Moines, IA 50368

Ronald A. Simank
Schauer & Simank
615 Upper N Broadway
Suite 2000
Corpus Christi, TX 78477

US Bank Office Equip.
Finance Services
1310 Madrid Street
Suite 101
Marshall MN 56258

Leo Vasquez
Tax Assessor-Collector
P. O. Box 4663
Houston, TX 77210-4663

Bonus Building Care
14331 Proton Road
Dallas, TX 75244

Home Depot Credit Services
P O Box 6029
The Lakes, NV 88901

City of Houston
P O Box 1560
Houston, TX 77521

Broadview Security
P O Box 660418
Dallas, TX 75266

Green Day Designs
4826 Kingfisher
Houston, TX 77035

Alief ISD
P O Box 368
Alief, TX 77411

Anthony Ustica
14911 Wunderlich Drive
Houston, TX 77069

Pitney Bowes
P O Box 856042
Louisville, KY 40285

Logix Communications
P O Box 3608
Houston, TX 77253-3608

American Business Machines Inc.
7303 W. Sam Houston Pkwy N
Houston, Texas 77040

Marlin Leasing Corp.
P O Box 13604
Philadelphia, PA 19101-3604

Pitney Bowes Global
P O Box 856460
Louisville, KY 40285-6460

Amidee 2004-I Tax Deed and
Certificate Investment Program Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Amidee 2005-II Texas Tax Deed &
Investment Program, Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Amidee 2006 – III Tax Deed Real
Estate Investment Program, Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Amidee 2006 Commercial Real
Estate Income Program, Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Amidee 2006 Preferred Real
Estate Income Program, Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Amidee 2007-I CRE Income
Fund, Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Amidee 2008-I CRE Income
Fund, Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

Amidee 2009 – I CRE Income
Fund, Ltd.
14420 W. Sylvanfield Drive
Suite 100
Houston, TX 77014

/s/ J. David Dickson

EXHIBIT "A"

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All that certain 3.7832 acres out of Lot 14, SATSUMA GARDENS, according to the plat thereof filed at Volume 02, Page 40, Harris County Map Records, also being in the James Seymour Survey, A-698, and being more particularly described by metes and bounds as follows:

D

COMMENCING at a found 3/4" iron pipe marking the Northwest corner of said Lot 14, Satsuma Gardens; Thence South 00 deg. 00 min. 19 sec. West, 483.77 feet along the East right-of-way line of Burke Road (60' wide) to a found 5/8" iron rod marking the POINT OF BEGINNING of herein described tract;

THENCE South 00 deg. 00 min. 19 sec. West - 300.00 feet continuing along said East right-of-way line of Burke Road to a found 5/8" iron rod for corner;

THENCE South 89 deg. 49 min. 45 sec. East - 549.23 feet along the south line of that certain Substitute Trustee Deed dated January 5, 1988 from Steven Neal Martin, Trustee to Midwest Federal Savings and Loan filed in the Official Public Records of Real Property of Harris County, Texas, at Clerk's File No. L-490917, Film Code No. 141-00-0700 to a found 1/2" iron rod for corner marking the Southwest corner of Lot 149, Satsuma Place, Section 4, according to the plat thereof recorded in Volume 27, Page 49 Harris County Map Records;

THENCE North 00 deg. 02 min. 22 sec. East - 300.00 feet along the West line of said Satsuma Place, Section 4, to a set 5/8" iron rod for corner;

THENCE North 89 deg. 49 min. 45 sec. West - 549.41 feet along the south line of that certain deed dated May 10, 1937, from A. L. Dickerson, *et ux* to J. C. Burke, *et ux* filed in Volume 1048, Page 489 Harris County Deed Records to the POINT OF BEGINNING and containing 3.7832 acres (164,795 square feet) of land, more or less.

ER 006 - 61 - 1092

EXHIBIT "B"

PERMITTED EXCEPTIONS

1. An easement for electric distribution facilities 10 feet wide along the West 171 feet of the Northerly line of subject property, together with an unobstructed aerial easement adjoining thereto five feet wide from a plane 20 feet above the ground upward, as granted to Houston Lighting and Power by instrument recorded in Volume 8221, Page 114 (D220010) of the Deed Records of Harris County, Texas.

Consent to encroach concrete paving over this easement granted by instrument(s) recorded in Volume 8347, Page 200 (D285164) of the Deed Records of Harris County, Texas.

2. Houston Lighting & Power Company Agreement for installation, operation and maintenance of underground/overhead electric service distribution system by instrument(s) recorded under Harris County Clerk's File No(s) H912687.

3. Terms, conditions and provisions contained in Lease Agreement dated June 10, 1988, between Burke Plaza Partners Joint Venture, as Lessor and Kwik Wash Laundries, Inc., as Lessee, as set out in instrument recorded August 2, 1988, under Harris County Clerk's File No(s) L781528.

4. Memorandum of Lease dated April 23, 1998, filed for record under Harris County Clerk's File No. T422544, giving notice of a Lease Agreement by and between Oak Point Apartments, as Lessor and Coinmach, as Lessee.

5. Notice of Contract by Burke Pasadena Apartments, Inc. and Extra Effort Payphones, Inc., filed for record under Harris County Clerk's File No(s) T619738.

6. Rights of tenants in possession under unrecorded leases and/or rental agreements.